

Court of Appeals, Division One
Civil Appeal

1 CA-CV 15-0419

CALHOUN et al. v. SMITH et al.

Appellate Case Information

Case Filed: 25-Jun-2015

Case Closed: 16-Nov-2016

Reinstated x 1: 21-Nov-2016

Re-Closed:

Decision

Dept/Composition

Department B

Hon. Patricia K Norris

Hon. Samuel A Thumma

Hon. Margaret H Downie

Side 1. DARREN CALHOUN and KRISTIN KIRLIN, husband and wife, Plaintiff/Appellant

(Litigant Group) DARREN CALHOUN et al.

• Darren Calhoun

• Kristin Kirlin

Attorneys for: Plaintiff/Appellant

Lance R Broberg, Esq. (AZ Bar No. 24103)

Timothy C Bode, Esq. (AZ Bar No. 31484)

Side 2. BARRY SMITH and CHRISTY SMITH, husband and wife; THE STARDUST LIVING TRUST DATED MARCH 13, 2008, Defendant/Appellee

(Litigant Group) BARRY SMITH et al.

• Barry Smith

• Christy Smith

• The Stardust Living Trust Dated March 13, 2008

Attorneys for: Defendant/Appellee

David A McCarville, Esq. (AZ Bar No. 24470)

Jody L Broadus, Esq. (AZ Bar No. 20122)

CASE STATUS

Dec 7, 2016.....Pending in ASC

Nov 21, 2016....Reinstated Case

| PREDECESSOR CASE (S) | Cause/Charge/Class | Judgment/Sentence | Judge, Role <Comments> | Trial | Dispo |
|----------------------|------------------------|-------------------|--|-------|-------|
| MAR CV2014-009505 | Quiet Title/Injunction | | Arthur T Anderson, Authoring Judge of Order | | |

DESCENDENT CASE(S)

ASC CV-16-0279-PR

CASE DECISION

20-Oct-2016 MEMORANDUM DECISION

Samuel Thumma.....Author

Patricia Norris.....Concur

Margaret Downie.....Concur

Filed: 20-Oct-2016

Mandate:

Decision Disposition

Affirmed

38 PROCEEDING ENTRIES

- 25-Jun-2015 FILED: Index of Record, Notice of Appeal from Maricopa County Superior Court filed 05/27/15; Notice of Cross Appeal from Maricopa County Superior Court filed 6/19/15
- 25-Jun-2015 FILED: e-Record on Appeal: Instruments/Minute Entries Exhibits - not sent at this time
- 1-Jul-2015 FILED: Notice to Parties re: Appellants/Cross-Appellees' Fee/Case Management Statement/Brief Due
- 2-Jul-2015 FILED: Notice of Filing Transcripts and Submission of Filing Fee; Certificate of Service for Notice of Filing Transcripts and Submission of Filing Fee (Appellants/Cross-Appellees)
- 2-Jul-2015 FILED: Reporter's Transcript of Proceedings 11/25/14 (Miguel A Benitez) (Appellant/Cross-Appellees')
- 2-Jul-2015 FILED: Reporter's Transcript of Proceedings 12/9/14 (Miguel A Benitez) (Appellants/Cross-Appellees)
- 8-Jul-2015 RECEIPT No.: 2015-00926 ; \$280.00, Authorization: #88017139424, Applied to: DARREN CALHOUN et al. - Class A Filing Fee (\$280.00) Paid for: Tiffany & Bosco PA - By Integrated Resource Systems IN
- 13-Jul-2015 FILED: Appellee/Cross Appellant's Notice Re: Cross Appellant's Fee and Case Management Statement Due/Appellant's Brief Due

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| 9. | 20-Jul-2015 | RECEIPT No.: 2015-00987 ; \$280.00, Check Number: #8627, Applied to: BARRY SMITH et al. - Class A Filing Fee (\$280.00) Paid for: - By Nussbaum Gillis & Dinner PC |
| 10. | 20-Jul-2015 | FILED: Case Management Statement; Ruling filed on 12/9/14 re: denying of Plaintiffs' Motion for Partial Summary Judgment and Defendants' Cross Motion for Partial Summary Judgment; Trial Minute Entry filed 12/12/14 re: denying request for closing argument and taking under advisement; Judgment filed 5/1/15 (Appellant/Cross-Appellee) |
| 11. | 29-Jul-2015 | ORDERED: Dismissing the cross-appeal. FURTHER ORDERED: Amending caption by removing designations of "cross-appellants" and "cross-appellees." Melina Brill ProTem Judge - Author |
| 12. | 31-Aug-2015 | FILED: Appellants' Opening Brief; Appellants' Opening Brief Certificate of Compliance; Appellants' Opening Brief Certificate of Service |
| 13. | 8-Oct-2015 | FILED: Motion for Procedural Order to Extend the Deadline to File the Answering Brief; Certificate of Service (Appellee) |
| 14. | 8-Oct-2015 | ORDERED: Motion for Procedural Order to Extend the Deadline to File the Answering Brief (Appellee) = GRANTED. Due date EXTENDED from Monday, 10-19-2015 to Wednesday, 11-18-2015. Melina Brill ProTem Judge - Author |
| 15. | 17-Nov-2015 | FILED: Appellees' Answering Brief; Appellees' Certificate of Compliance; Appellees' Certificate of Service (Appellee) |
| 16. | 17-Nov-2015 | FILED: Appellees' Appendix to Answering Brief (Appellee) |
| 17. | 18-Nov-2015 | FILED: Request for Oral Argument; Certificate of Service (Appellee) |
| 18. | 1-Dec-2015 | FILED: Motion for Procedural Order to Extend Deadline to File Reply Brief; Certificate of Service for Motion for Procedural Order to Extend Deadline to File Reply Brief (Appellant) |
| 19. | 3-Dec-2015 | ORDERED: Motion for Procedural Order to Extend Deadline to File Reply Brief (Appellant) = GRANTED. Due date EXTENDED from Monday, 12-07-2015 to Monday, 12-21-2015. Melina Brill ProTem Judge - Author |
| 20. | 21-Dec-2015 | FILED: Appellants' Reply Brief; Certificate of Compliance; Certificate of Service |
| 21. | 29-Dec-2015 | FILED: Memorandum – to Clerk of Superior Court Re: any additional record not already transmitted due within 10 days |
| 22. | 7-Jan-2016 | FILED: Additional Record on Appeal: Exhibits: HD 12/9/14 - List and # 2 11 12 16 17 18 19 26 30 in manila envelope. |
| 23. | 8-Jan-2016 | FILED: Supplemented Superior Court e-Record with Revised Index of Record |
| 24. | 12-Jan-2016 | ORDERED: Request for Oral Argument (Appellee) = GRANTED. Hon Michael J Brown - Author |
| 25. | 7-Jul-2016 | CLNDR: MONTHLY COURT CASE CALENDAR, Department B, 9-6-16, 11:00 am, COURTROOM 1. |
| 26. | 28-Jul-2016 | FILED: Appellants' Motion for Procedural Order to Continue Oral Argument (First Request); Certificate of Service Re: Appellants' Motion for Procedural Order to Continue Oral Argument (Appellant) |
| 27. | 3-Aug-2016 | FILED: Receipt for Notice of Oral Argument, Signed by Lance R Broberg on 08/03/2016 (Appellant) |
| 28. | 3-Aug-2016 | ORDERED: Appellants' Motion for Procedural Order to Continue Oral Argument (First Request) (Appellant) = GRANTED/vacating oral argument previously set in case on 09/06/2016, at 11:00 a.m. and resetting same to 09/27/2016, at 10:15 a.m. before Department B. Hon Patricia K Norris - Author |
| 29. | 8-Aug-2016 | FILED: Receipt for Notice of Oral Argument, Signed by David A McCarville on 08/03/2016 (Appellee) |
| 30. | 10-Aug-2016 | ORDERED: vacating oral argument set in case on 09/27/2016 at 10:15 a.m. in Courtroom 1 and resetting oral argument on 09/27/2016 at 11:00 a.m. in Courtroom 1. Hon Patricia K Norris - Author |
| 31. | 27-Sep-2016 | FILED: Sign-in Sheet/Case is Under Advisement as of 09/27/2016 (Dept B) |
| 32. | 20-Oct-2016 | MEMORANDUM DECISION (Affirmed) Hon Samuel A Thumma - Author; Hon Patricia K Norris - Concur; Hon Margaret H Downie - Concur |
| 33. | 20-Oct-2016 | FILED: Memorandum Decision Distribution List |
| 34. | 16-Nov-2016 | FILED: Mandate, Record returned to superior court. (vacated per order filed 11/21/2016) |
| 35. | 18-Nov-2016 | FILED: Plaintiffs/Appellants' Motion for Procedural Order: Motion to Reinstate Case; Certificate of Service (Appellant) |

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| 36. | 21-Nov-2016 | ORDERED: vacating the mandate issued 11/16/2016. FURTHER ORDERED: reinstating this appeal. FURTHER ORDERED: parties have to/including 15 days from the date of this order in which to file any Motion for Reconsideration with this court, or Petition for Review with the Arizona Supreme Court, that they may deem appropriate. Hon Samuel A Thumma - Author |
| 37. | 7-Dec-2016 | FILED: Email Notice from ASC re: Petition for Review filed 11/18/16 request for partial record |
| 38. | 7-Dec-2016 | FILED: Letter forwarding partial record to Arizona Supreme Court |